

AAP Opinion KFunnie Disciplinary Action

South Carolina Association of USATF — AAP Final Decision

This is the final written opinion and decision of the USATF-SC Association Arbitration Panel (AAP) issued after deliberations on Wednesday, February 5, 2020, in an action brought under standing rule 5 of the South Carolina Association of USATF, Inc. (herein referred to as the Association, this corporation, or USATF-SC).

Member of the Association subject to this disciplinary proceeding:

Name: Kenneth Funnie
USATF Membership Number: 1407066479

Decision: The AAP rules in favor of the Association. This decision is effective as of February 10, 2020 and shall not be stayed.

Waiver by Kenneth Funnie: Kenneth Funnie failed to submit a written answer to the Association Secretary within thirty (30) days after receipt of the Notice of Proceeding of the disciplinary action, and furthermore he has not filed any communication or response in any form since the receipt of the letter notifying him that a disciplinary complaint had been filed; Therefore, pursuant to Association Standing rule 5 (H), Kenneth Funnie has waived the opportunity to have a hearing or to appeal any adverse decision on this matter. The record shows that due notice was given to the respondent, Kenneth Funnie, and that he was fully aware of this proceeding, as evidenced by multiple letters and USPS records including the delivery of the Notice of Proceeding to Kenneth Funnie on 12/20/19, provided to the AAP, and made a part of the record. NOTE: All letters, notices and other correspondence regarding this matter, have been mailed or emailed to the physical or internet addresses that the respondent has entered in the USATF National membership database.

Opinion:

1. Jurisdiction:

The Association has jurisdiction over this disciplinary proceeding since it relates to matters that have arisen within the boundaries of the Association, and the subject matter is neither a sexual misconduct allegation nor a doping violation.

2. Issues:

The Association alleged that Kenneth Funnie had violated several USATF and USATF-SC bylaws, operating regulations, standing rules, and policies within the State of South Carolina. The issues involve the Association and a member of the Association.

3. Arguments:

- a. Kenneth Funnie did not dispute any of the arguments made by the Association
- b. Kenneth Funnie has or should have in his possession funds belonging to the Association,

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- c. Kenneth Funnie has refused to hand over those funds,
- d. Kenneth Funnie has also obstructed investigations regarding the funds;
- e. If Kenneth Funnie did not receive those funds, then he has impermissibly provided services from the Association to friends and family members without payment;
- f. Kenneth Funnie has or should have in his possession records belonging to the Association and has obstructed investigations regarding the records.
- g. Kenneth Funnie impermissibly obtained benefits and/or financial advantages for his family, household members and/or others which should have been limited to current members of the Association.
- h. Kenneth Funnie has acted and continues to act in a manner detrimental to the purposes of the Association and USATF.
- i. Kenneth Funnie has unfairly benefited from the activities and/or net earnings of the Association. He has used assets of the Association for his own enrichment which is not a charitable purpose, and has thus violated the 501(c)(3) organization regulations governing the dedication of the Association's assets to charitable purposes.

4. Finding of Facts with Citations: The Association produced evidence in their Notice of Disciplinary Complaint dated November 6, 2019 (the Complaint) and the Notice of Disciplinary Proceeding dated December 18, 2019 (the Notice), the supporting documents appended to the Complaint and/or the Notice, and in unredacted documents shared confidentially with the AAP which correspond to those supporting documents. All of these documents were deemed convincing and reliable, are hereby made a part of the record, and are incorporated in this decision. Those unredacted supporting documents shared confidentially with the AAP during this proceeding are made a part of the record and this decision, but shall be sealed to protect the privacy of Association members not party to this disciplinary proceeding. Unless otherwise noted, the following facts were provided in the Notice:

- a. Kenneth Funnie was USATF-SC Membership Chair of the Member Services Committee, a standing administrative committee of the Association, at least for the period from October 2016 to September 2018. (Association bylaws, Article 13A)
- b. Kenneth Funnie has impermissibly retained funds and/or services from the Association. Kenneth Funnie knew he was required to hand over funds and knew how to do so, but chose not to do so. This is evident from the fact Kenneth Funnie handed over three checks for memberships to the Association.
- c. Kenneth Funnie is not an officer of the Association and has no right to hold the Association's funds or records in his possession.
- d. The Association made repeated requests for the funds and records from Kenneth Funnie and he refused to provide the funds and records, and further refused to

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provide any explanation or information on the status of the Association's funds and records.

- e. The Association provided convincing and reliable evidence that the total amount due for Association memberships impermissibly retained by Kenneth Funnie is at least \$940.
- f. On at least 23 occasions, Kenneth Funnie entered memberships into the USATF membership database and failed to hand over the corresponding funds to the Association.
- g. Kenneth Funnie tampered with the USATF database by adding additional years to existing memberships and retained the fees for himself, or the member in question impermissibly received services to which they were not entitled. Since Kenneth Funnie tampered with the database to extend his own membership without payment, he must have done this on at least one occasion.
- h. Kenneth Funnie has violated Association bylaws 13E; 15D.1; 15D.2; 15D.5; 15D.7; and standing rule 1.A.3 and his duty of loyalty to the Association by his engagement in transactions for the benefit of himself rather than for the benefit of the Association. He has been self-dealing by improperly taking benefits, or improperly giving benefits to others, from transactions that he executed on behalf of the Association.
- i. Kenneth Funnie violated the Code of Ethics of USATF by his diversion of funds and/or services.
- j. Kenneth Funnie used his position as Membership Chair to further his own and/or a friend, and/or a family member's and/or a member of his household's personal interest, which is a violation of the USATF Code of Ethics.
- k. Kenneth Funnie has violated the USATF policy on Code of Conduct subsection 1 through his dishonest actions and lack of integrity, subsection 3 by failing to provide fair treatment for everyone, and subsections 5 and 6 by corruptly giving financial benefits to some and not others, and by cheating the Association out of funds.
- l. Kenneth Funnie has violated the USATF policy on Code of Conduct because his conduct of business as Membership Chair and conduct since his termination from that position has been unethical, inconsistent with the laws and regulations of South Carolina, and appears to have been improper.
- m. For each membership entered on the USATF database by Kenneth Funnie for which no funds have been forwarded to the Association, Kenneth Funnie has either retained funds belonging to the Association, or Kenneth Funnie has violated the USATF policy on Conflicts of Interest III.A.4 by helping a family member or friend obtain benefits (financial or otherwise) or other preferential treatment for which they would not otherwise qualify.
- n. Kenneth Funnie has ignored multiple demand letters from the Association that asked for the records he was required to keep under the Association bylaws. Because he

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has failed to keep, or has destroyed, and refuses to turn over these records, he is in violation of USATF-SC bylaw articles 15D.5 and 15D.7

- o. Kenneth Funnie has violated the USATF policy on Conflicts of Interest III.C by refusing to hand over the Association's funds or records, and by obstructing investigations into his conduct because this gives the appearance of impropriety when viewed through the eyes of a reasonably prudent person.

4. Relief:

The AAP order the following eight (8) remedies. If any one of these five remedies is barred or reversed for any reason, the remaining remedies shall still stand.

1. Kenneth Funnie improperly took funds or services for himself, his friends and/or his family. Kenneth Funnie shall pay the Association \$940 and any other verifiable monies owed by him to the Association and/or USATF National Office.

2. Kenneth Funnie caused non-current members of USATF and the Association to gain financial advantages, including stipends and/or paying for hotel rooms on their behalf, for which membership of USATF and/or the Association is a prerequisite. Kenneth Funnie shall pay the Association that amount which the Association documents was paid out to and/or paid on behalf of those individuals Kenneth Funnie entered in the database as members but for whom no funds were paid to the Association. Within ten days of this written opinion, the Association shall produce documents sufficient to show any amounts paid as described, these shall be verified by the finance committee, and the exact amount shall be appended to this decision.

3. Kenneth Funnie has obstructed the Association's investigation into the funds and records he has, or should have, in his possession and has forced the Association to enter this formal disciplinary proceeding. Kenneth Funnie is required to pay the Association's printing, copying, telephone conference, and document transmittal costs for this disciplinary proceeding. The Association shall produce documents sufficient to show their costs in this disciplinary proceeding, these shall be verified by the finance committee, and the exact amount shall be appended to this ruling.

4. Should Kenneth Funnie fail to pay all of the monies due to the Association as the result of this action within a reasonable time, or make arrangements to make payment over time, it is recommended that the Association file a small claims court action against Mr. Funnie to recoup all verifiable monies he owes to the Association. If the Association is required to file a small claims action against Mr. Funnie, the Association's court fees and other costs shall be paid by Mr. Funnie.

5. Kenneth Funnie shall be disbarred for life from holding any office with USATF-SC. Kenneth Funnie shall never again be allowed to hold any position, whether elected or appointed, as an officer of the Association, chair of any committee of the Association, or to be a member of any committee of the Association.

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6. Kenneth Funnie shall be suspended from membership of USATF-SC for life. Under no circumstances whatsoever shall Kenneth Funnie regain eligibility for membership of the Association until he has paid in full the amounts required by these remedies. It is recommended that the Association remove Kenneth Funnie permanently from the Association.

7. A copy of this decision should be remitted to the USATF National Office, and any other relevant body, including the US Center for SafeSport, for review and/or any action deemed appropriate and/or necessary.

8. The Association recommends that USATF National impose a minimum of a 10-year suspension from all USATF associations, and that an email be sent to all current USATF members and associations notifying them of this decision and relevant remedies.

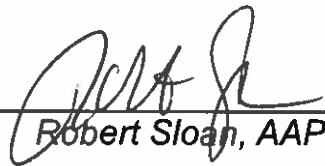
Pursuant to USATF-SC Standing Rule 5, the USATF-SC Association Arbitration Panel for the Kenneth Funnie Disciplinary Action deliberated on February 10, 2020 and issued their decision on February 10, 2020. This is the written opinion of the AAP and shall be in full effect from the date of issuance.

Association Arbitration Panel


Robert Sloan - AAP Chair

Anna Owens - At-large member

Justin Bishop - Active Athlete



Robert Sloan, AAP Chair



Date

**Attachment to AAP Final Written Opinion on
Kenneth Funnie Disciplinary Action - Financials**

Kenneth Funnie Disciplinary Action - Funds Due based on AAP Final Decision 3/3/2020		
AAP Item #	Description	Amount
Item 1	Membership fees not paid to Association by KFunnie	\$910.00
Item 2	Cost of benefits to members with unpaid memberships	N/A
Item 3	Association direct costs to process disciplinary action	\$444.08
Item 4	Cost to Association to recoup monies.... Not Yet Determined	\$0.00
	TOTAL DUE to USATF-SC	\$1,354.08

AAP Item 1

USATF Memberships Entered in AMA database by KFunnie 10/2016 - 9/2018

Month/ Year	Youth/ Adult	# Years	Membership Years	Alpha ID	AMA Date Applied	Amount Due to USATF-SC	Amount Paid to USATF-SC	Check Number
12/16	Y	1	2017 – 2017	A	12/15/2016	\$20.00		
	A	3	2017 – 2019	B	12/23/2016	\$80.00		
1/17	A	1	2017 – 2017	C	1/2/2017	\$30.00		
	A	2	2017 – 2018	D	1/21/2017	\$55.00	\$55.00	# 9499
	A	1	2018 – 2018	E	1/22/2017	\$30.00		
	A	1	2017 – 2017	E	1/25/2017	\$30.00	\$30.00	# 5719
	A	1	2017 – 2017	F	1/27/2017	\$30.00		
	A	1	2020 - 2020	R	1/2/2017	\$30.00		
4/17	A	4	2018 –2021	I	4/29/2017	\$100.00		
5/17	A	2	2017-2018	G	5/17/2017	\$55.00		
	A	1	2020 - 2020	S	5/18/2017	\$30.00		
6/17	A	1	2018 – 2018	A	6/7/2017	\$30.00		
8/17	A	1	2017 – 2017	H	8/9/2017	\$30.00	\$30.00	# 1002
10/17	A	2	2019 – 2020	M	10/26/2017	\$55.00		
11/17	A	1	2018 – 2018	J	11/11/2017	\$30.00		
	A	1	2018 – 2018	K	11/28/2017	\$30.00		
1/18	A	2	2019 – 2020	N	1/7/2018	\$55.00		
	A	1	2019 – 2019	J	1/18/2018	\$30.00		
3/18	Y	1	2018 – 2018	L	3/16/2018	\$20.00		
	A	1	2020 - 2020	T	3/24/2018	\$30.00		
4/18	A	1	2019 – 2019	O	4/11/2018	\$30.00		
	A	2	2019 – 2020	K	4/13/2018	\$55.00		
	A	2	2019 – 2020	P	4/13/2018	\$55.00		
6/18	A	1	2019 – 2019	A	6/17/2018	\$30.00		
7/18	A	2	2019 – 2020	Q	7/22/2018	\$55.00		
Totals		37				\$1025.00	\$115.00	

AAP Item 3

Kenneth Funnie Disciplinary Action - Direct Costs Summary		
Date	Item	Amount
09/18/2019	USPS Certified Mail - Notice of Pending Action	\$4.05
11/07/2019	USPS Signature Confirmation - Notice of Complaint	\$17.75
12/17/2019	Walmart - Binders & materials for Notice of Proceeding	\$43.94
12/17/2019	FedExOffice - Printing Notice of Proceeding	\$71.38
12/18/2019	USPS Signature Confirmation - Notice of Proceeding to KFunnie	\$28.75
12/18/2019	FedEx Shipping - NOP to AAP & Complainant	\$48.71
1/31/2020	USPS mail... 7 stamps - Supplemental to AAP	\$3.50
3/4/2020	USPS Mail... 2 stamps - AAP Final Opinion	\$1.00
3/20	AAP Meeting Costs	\$225.00
	TOTAL	\$444.08